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JUL 30 2014

LARIMER COUNTY ELECTIONS

RESOLUTION NO. 07292014-002

**A RESOLUTION DESCRIBING A PROPOSAL FOR THE EXTENSION OF A 0.25% COUNTYWIDE SALES AND USE TAX FOR OPEN SPACE, NATURAL AREAS, WILDLIFE HABITAT, PARKS AND TRAILS PURPOSES; AMENDING CERTAIN PROVISIONS OF THE HELP PRESERVE OPEN SPACES INITIATIVE; CALLING AN ELECTION ON NOVEMBER 4, 2014 FOR THE CONSIDERATION OF SUCH PROPOSAL; SETTING THE BALLOT TITLE AND BALLOT QUESTION FOR THE ELECTION; AND AUTHORITY TO SPEND ALL OF THE PROCEEDS OF THE SALES AND USE TAX.**

WHEREAS, on November 7, 1995, a majority of the eligible electors of Larimer County voting at the election held on that day approved an initiated issue authorizing the imposition of a one quarter of one percent (0.25%) sales and use tax for open space, natural areas, wildlife habitat, parks and trails purposes to terminate on December 31, 2003, and as described in further detail in the Help Preserve Open Spaces Initiative; and

WHEREAS, on November 2, 1999, a majority of the eligible electors of Larimer County voting at the election held on that day approved an initiated issue authorizing the extension of the one quarter of one percent (0.25%) sales and use tax for open space, natural areas, wildlife habitat, parks and trails purposes until December 31, 2018, as described in further detail in the Help Preserve Open Spaces Initiative; and

WHEREAS, substantial input has been received from the public, and from various interested parties including municipalities, regarding whether it is in the best interests of the residents of Larimer County to extend the sales and use tax past December 31, 2018, and the input has been overwhelmingly in favor of extending the sales and use tax; and

WHEREAS, the input received supports that it is in the best interests of the residents of the County that the countywide sales and use tax at the rate of one quarter of one percent (0.25%) be extended from its current date of expiration of December 31, 2018, for a period of twenty-five (25) years to December 31, 2043, the receipts from which shall continue to be used for open space, natural areas, wildlife habitat, parks and trails purposes in the manner set forth in the Help Preserve Open Spaces Initiative; and

WHEREAS, input received and the County's experience administering and distributing the sales and use tax supports that it is in the best interest of the County, without increasing the tax, to adopt amendments to the Help Preserve Open Spaces Initiative in order to change the sales and use tax revenue available to the County to 50 percent and 50 percent to municipalities and to modify the County open space program's percentage allocation of funding, such that (i) funding for acquisition will change from 70 percent to 35 percent, (ii) funding for operations, maintenance, improvements and administration will change from 15 percent to 50 percent, and (iii) the remaining 15 percent in funding will be used for either of the aforementioned purposes, and to make other minor clarifications to the County's open space program, as set forth in further detail herein; and,

WHEREAS, pursuant to Article X, Section 20 of the Colorado Constitution, an extension of an expiring tax requires majority voter approval; and,

WHEREAS, pursuant Article X, Section 20 of the Colorado Constitution, proposed amendments to the Help Preserve Open Spaces Initiative are permitted if approved by majority vote of the registered electors of Larimer County; and,

WHEREAS, the Board of County Commissioners desires to refer to the registered electors of the County a proposal for the extension of the countywide sales and use tax for the purposes enunciated herein at the next general election on November 4, 2014, and such election date is within the next succeeding 120 days after the adoption of this Resolution; and

WHEREAS, pursuant to Section 1-5-203(3), C.R.S., the Board of County Commissioners must certify ballot contents to the Larimer County Clerk and Recorder for said November 4, 2014 election.

NOW, THEREFORE, BE IT RESOLVED by the Board of County Commissioners of the County of Larimer, State of Colorado, that there shall be referred to the registered electors of the County at the general election to be held on November 4, 2014, the following proposal:

I. GENERAL PROVISIONS.

- A. Purpose. The purpose of this Resolution is, upon the approval of a majority of registered electors voting on such proposal, to extend the sales and use tax of one quarter of one percent (0.25%) upon the sale at retail of tangible personal property and the furnishing of certain services in the County in accordance with the provisions of Article 2 of Title 29, and Article 26 of Title 39, C.R.S., as currently in effect or hereafter amended, including specifically and not by way of limitation the exemption for sales of food and prescription drugs, and such statutory provisions are incorporated herein by this reference, and such sales and use tax shall be dedicated to open space, natural areas, wildlife habitat, parks and trails purposes. The sales and use tax shall become effective at 12:01 a.m. on January 1, 2019 and cease at 11:59 p.m. on December 31, 2043.
- B. Statutory Definitions Incorporated. Unless the context requires otherwise, the terms used in this Resolution shall have the meaning set forth in the Colorado Revised Statutes, which definitions are incorporated herein by this reference. If not defined therein, terms shall have their ordinary and common meaning.

BALLOT ISSUE. A Ballot Issue is hereby certified to the Larimer County Clerk and Recorder for inclusion in the November 4, 2014 election, as follows:

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A. Ballot Title

CONTINUE PROTECTING OUR NATURAL AREAS, OPEN SPACE, RIVERS AND WILDLIFE HABITAT

Ballot Issue

WITHOUT INCREASING TAXES, SHALL THE EXISTING ONE-QUARTER OF ONE PERCENT LARIMER COUNTY SALES AND USE TAX, OR 25 CENTS FOR EVERY 100 DOLLARS (WHICH WILL NOT BE COLLECTED ON SALES OF FOOD OR PRESCRIPTION DRUGS), BE EXTENDED FOR 25 YEARS FOR THE SAME PURPOSES OF:

- CONSERVING NATURAL AREAS, OPEN SPACES, RIVERS AND WILDLIFE HABITAT,
- PROTECTING LANDS THAT PRESERVE WATER QUALITY AND RIVERS, LAKES AND STREAMS,
- OPERATING, MAINTAINING AND IMPROVING NATURAL AREAS, PARKS AND TRAILS, AND
- PROTECTING WORKING FARMS AND RANCHES

SUBJECT TO RECOMMENDATIONS OF A CITIZENS' ADVISORY COMMITTEE AND INDEPENDENT AUDIT, AND CONTINUING THESE FUNDS INCLUDING EARNINGS THEREFROM AS A VOTER-APPROVED REVENUE CHANGE WITHOUT REGARD TO ANY SPENDING, REVENUE, OR OTHER LIMITATION CONTAINED WITHIN ARTICLE X, SECTION 20 OF THE COLORADO CONSTITUTION OR ANY OTHER LAW, AND WITH NO CHANGES TO THE "HELP PRESERVE OPEN SPACES" PROGRAM EXCEPT CHANGING THE COUNTY'S PORTION TO 50%, AND ALLOWING AT LEAST 35% OF THE COUNTY FUNDS TO BE USED FOR LAND ACQUISITION AND CONSERVATION; AT LEAST 50% FOR IMPROVEMENT, MANAGEMENT, MAINTENANCE AND ADMINISTRATION OF OPEN SPACE, NATURAL AREAS, WILDLIFE HABITATS, PARKS AND TRAILS; AND AT MOST 15% TO BE USED FOR EITHER OF THESE COUNTY OPEN SPACE PROGRAM PURPOSES?

- B. Election Called. It is hereby determined that an election shall be held on November 4, 2014, as part of the general election, for the purpose of submitting to the registered electors of Larimer County the ballot issue set forth herein.
- C. Cost of Election. The entire cost of the election shall be paid from the general fund of Larimer County.
- D. Notices of Election.
- a. The Larimer County Clerk and Recorder shall publish the text of this Resolution four separate times, a week apart, in the official newspaper of Larimer County and each incorporated municipality within Larimer County;
  - b. The Larimer County Clerk and Recorder shall cause to be published, at least twenty (20) days before the election, the notice required by Section 1-5-205, C.R.S. Such notice shall be in the form and contain the information required

by law. The notice shall also be posted at least ten (10) days before the election as required by Section 1-5-205(1.3), C.R.S.

- E. Election Official. The Larimer County Clerk and Recorder is designated as the County's "Designated Election Official" as defined in Section 1-1-104(8), C.R.S., as the person responsible for running the election and shall undertake all measures necessary to comply with the election provisions set forth in Colorado Constitution, Article X, Section 20(3), and any other law, including, but not limited to, the mailing of required election notices and ballot issue summaries.
- F. Conduct of Election. The conduct of the election shall conform so far as is practicable to the general election laws of the State of Colorado.

III. AMENDMENTS TO HELP PRESERVE OPEN SPACES INITIATIVE. Subject to approval of the above-referenced ballot issue by a majority of the registered Larimer County electors voting at the November 4, 2014 election, the Help Preserve Open Spaces Initiative shall be amended as follows:

- A. Section 1 is amended to include the municipalities of Johnstown and Windsor to reflect the Intergovernmental Agreement Concerning County Open Lands Sales Tax Distribution recorded at 20140040532 and any amendments thereto;
- B. Section 3 and Section 6 are amended to reduce the percentage of the Larimer County Open Space Fund ("Fund") available to the municipalities wholly or partially located in Larimer County from at least 55 percent to 50 percent;
- C. Section 3 is amended to increase the County's portion of the Fund to 50 percent and to remove the 35 percentage minimum allocation;
- D. Section 6 is amended to include in its population and/or sales and use tax collection formulas (whichever generates the most revenue) residents within and/or sales and use tax revenue generated within the Larimer County portion of the municipalities located partially in the County, consistent with the Intergovernmental Agreement Concerning County Open Lands Sales Tax Distribution recorded at 20140040532 and any amendments thereto;
- E. Section 15 is amended as follows:
  - a. Decrease the percentage available and amend the language within Section 15 to state for "paying all or any part of the costs of acquiring interests in, and protecting open space, natural areas, wildlife habitat, parks and trails" from not less than 70 percent to not less than 35 percent and up to 50 percent and to include the costs of restoring and enhancing native plant and animal

communities and other habitat related restoration in the aforementioned purposes;

- b. Increase the percentage available and amend the language within Section 15 to state for “ paying all or any part of the long-term costs of operating, maintaining (to include noxious weed management and other maintenance costs), and administering such interests and shall include costs of improvements of lands purchased with monies from the Fund as those lands generally described in the most current Larimer County Open Lands Master Plan” from not less than 15 percent to not less than 50 percent and from up to 30 percent to up to 65 percent; and
  - c. Clarify that the remaining 15 percent allocation shall be used for either of the aforementioned purposes and/or improvement of specifically Carter Lake, Horsetooth Reservoir, Flatiron Reservoir and Pinewood Reservoir.
- F. Section 16 is amended in part to read as follows: “THAT, specifically for revenues attributable to Larimer County, open space, natural areas, wildlife habitat, parks and trails are defined as those lands generally described in the most current Larimer County Open Lands Master Plan adopted by the Board of County Commissioners....”
- G. Section 17 is amended in its entirety to read as follows: “THAT a voluntary county-wide Advisory Board shall be established by the Board of County Commissioners to advise and make recommendations regarding the attributable revenue share to Larimer County; and that the membership of the Advisory Board shall consist of at least nine (9) citizens with geographic representation substantially in proportion to population and sales tax generation.”
- H. The Initiative is amended throughout to state that the extended sales and use tax to be imposed on all sales of tangible personal property at retail or the furnishing of services in Larimer County, as provided in Section 29-2-105 and Section 29-2-109, C.R.S., effective throughout the incorporated and unincorporated portions of Larimer County, shall become effective at 12:01 a.m. on January 1, 2019, and cease at 11:59 p.m. on December 31, 2043.
- IV. ARTICLE X, SECTION 20, COLO. CONST. The full amount of revenues, and any investment earnings thereon, derived from the sales and use tax may be collected, retained and expended by the County as a voter-approved revenue change and an exception to the limits which would otherwise apply under Article X, Section 20 of the Colorado Constitution or any other law.

V. REPEAL AND AMENDMENT. If the sales and use tax is approved by a majority of the registered electors of Larimer County at the election to be held on November 4, 2014, this Resolution's provisions relating to the amount of tax imposed, specifically the one-quarter of one percent (0.25%) sales and tax, shall not be repealed or amended except by a vote of the registered electors of the County.

VI. SALES AND USE TAX ADMINISTRATION. Larimer County is authorized to adopt such uniform rules and regulations as may be necessary for the administration and enforcement of the sales and use tax; and the Board of County Commissioners or their authorized representatives are hereby empowered to enter into and execute on behalf of the County any agreements necessary for the administration and enforcement of the sales and use tax. The Board of County Commissioners may change the procedures of collection of the sales and use tax, vendor fees, and the administration or enforcement of the sales and use tax, but may not add or eliminate exemptions without further voter approval, except the Board of County Commissioners may add, eliminate or change exemptions without further voter approval to reflect changes in exemptions as set forth in state law.

VII. SEVERABILITY. If any section, paragraph, clause or provision of this Resolution, the Help Preserve Open Spaces Initiative, or the ballot issue certified by this Resolution, shall be adjudged to be invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause or provision shall not affect any of the remaining sections, paragraphs, clauses, or provisions of this Resolution, the Help Preserve Open Space Initiative or said ballot issue. It is the intention of the Board that the various parts of this Resolution, the Initiative and said ballot issue are severable.

ADOPTED this 29<sup>th</sup> day of July, 2014.

ATTEST:

BOARD OF COUNTY COMMISSIONERS OF  
LARIMER COUNTY, STATE OF COLORADO

Helen Cockman  
Clerk to the Board

By: [Signature]  
Chairperson

APPROVED AS TO FORM:

[Signature]  
County Attorney

7-24-14  
Date

